

IEEP's response to the public consultation 'Deforestation and forest degradation: reducing the impact of products placed on the EU market'

Context: A Commission funded [study](#) found that between 1990 and 2008, European consumption was responsible for 10% of global deforestation associated with the production of goods and services. In this context, as announced in the [European Green Deal](#), the Commission seeks to minimise the EU's contribution to deforestation and forest degradation worldwide and promote the consumption of products from deforestation-free supply chains in the EU. The Commission restated its intention in both the [Biodiversity Strategy for 2030](#) and the [Farm to Fork Strategy](#). The input from this public consultation will contribute to the impact assessment for and the design of potential demand-side measures to help tackle deforestation and forest degradation.

10 December 2020 | IEEP welcomes the opportunity to submit its opinion to the European Commission's [public consultation survey](#).

The consultation survey covers several important aspects linked to deforestation and forest degradation associated with global value chains. However, this complementary written submission highlights two additional issues not addressed in the survey that IEEP considers of key importance for future discussions, particularly linked to the trade dimension of these problems:

1. The formulation of sustainability criteria and definitions for deforestation-free products; and
2. The role EU trade agreements and supporting processes can play in addressing deforestation and forest degradation.

Principles & sustainability criteria

The Commission is faced with a significant opportunity; by designing a binding measure to ensure that all commodities and products placed on the EU market avoid contributing to deforestation and forest degradation, the EU could lead the

way in establishing common sustainability criteria which could then be implemented in a practical way, in- and outside the EU.

In this context, IEEP emphasises the need for explicit principles and criteria that are feasible to interpret and implement, in both the EU and third countries, as well as criteria that are applicable to a wide variety of commodities and products. These criteria must be built on a foundation of clear definitions of key concepts (e.g. definitions for 'forest', 'deforestation' and 'forest degradation') and a sensible base year. Moreover, these criteria must be complemented by appropriate instruments ensuring chain of custody and full traceability of products.

Principles

First, the Commission needs to determine the objective to be achieved by the proposed measure and articulate this objective as a statement in the principles of this measure.

Below are three possible examples of such principles, developed as part of an [IEEP scoping study](#) published in 2020, covering deforestation, forest degradation and ecosystem conversion:

1. Agricultural and forest commodities placed on the EU market shall not result in deforestation (the conversion of forest to another land use or the long-term reduction of tree canopy cover below a [certain threshold]¹);
2. The production of agricultural and forest commodities placed on the EU market shall not lead to the conversion of other natural ecosystems to agricultural land use;
3. The production of agricultural and forest commodities placed on the EU market shall not lead to the degradation or destruction of high carbon stock, high conservation value and high biodiversity value ecosystems.

The first proposed principle addresses the loss of forest area through conversion to agricultural land types (arable, permanent crops, grasslands) by defining the scope of forest within the criteria. The second principle takes a similar approach but applies to other natural ecosystems that are not forest by definition. The third principle accepts that some commodities can still be produced within ecosystems (e.g. cocoa produced in a forest context) but could lead to degradation and loss of the ecosystem, through pollution, modification of structure, etc.

¹ Square brackets show where a decision should be made with respect of the specifics of the criteria, such as the base year or the definition used.

Sustainability criteria

Then, the Commission needs to decide on a set of criteria to describe how the principle can be adhered to in practice. Central to the development of effective sustainability criteria is ensuring clarity on the definitions of the concepts used, particularly when referring to areas being protected.

[IEEP's scoping study](#) concluded that a crucial element of these sustainability criteria is establishing a common definition of key concepts and determining a base year², which is more challenging in practice than in theory.

The choice of both definitions and base years is determined by specific policy objectives. For instance, IEEP scoping study proposes the following criteria related to deforestation, forest degradation and ecosystem conversion:

1. Agricultural and forest commodities placed on the EU market shall not be produced from land that had the following status in [date] and has been converted to agricultural land since this time:
 - i) **Forest land** – [definition];
 - ii) **Natural ecosystems** – [definition].
2. Agricultural and forest commodities placed on the EU market shall not be [produced] from land that had the following status in [date] and still has that status, except where the commodity can be produced and harvested in compliance with conservation objectives and does not lead to the loss or degradation of ecosystem functions on or adjacent to this land:
 - i) **Forest land** – [definition];
 - ii) **Semi-natural ecosystems** – [definition].

The first criterion addresses the risk that the demand for agriculture and forest commodities leads to the expansion of agricultural land area (arable, permanent crops or grasslands) through conversion of other land cover and use types (e.g. forest). While the second criterion accepts that some agricultural and forest commodities can be produced within existing ecosystems (e.g. cocoa produced in a forest context) but could lead to degradation and loss of the ecosystem.

The benefit of having a more widely applicable set of criteria, as opposed to separate criteria for several commodities, is that this can help in providing a uniform approach to all agriculture and forest commodities on the EU market and thus provide clarity to operators and auditors.

² A point in time before which those seeking to comply cannot or should not be held responsible for the actions that have taken place on or were related to land.

Trade agreements & underpinning processes

The EU-Mercosur trade agreement has become the centre piece in the debate on trade policy contributing to global deforestation. Environmental stakeholders have increased the pressure on Member State governments to not ratify the trade agreement as it currently stands due to [a lack of environmental protection](#).

The Commission's proposal for the development of deforestation-free supply chains, if appropriately designed and implemented, would help to address several concerns pertaining to European consumption's contribution to deforestation, applying also to the EU-Mercosur agreement.

However, IEEP stresses that in order to prevent negative impacts of global supply chains to forest ecosystems, the Commission needs to also move forward with the implementation of the broader Green Deal agenda on 'greening' EU trade – including improving the sustainability aspects of the EU-Mercosur agreement – as this is the framework within which the future EU measure(s) will need to be implemented (e.g. enforced and monitored).

So far, the Commission has appointed a Chief Trade Enforcement Officer to step up efforts to enforce the EU Free Trade Agreement's (FTA) Trade and Sustainable Development (TSD) Chapters' commitments. Moreover, the Commission has launched the '[Single Entry Point](#)', a complaints platform open to all stakeholders with the ability to address violations of the TSD Chapters.

IEEP emphasises the need to make trade work for the environment by reinforcing the forestry elements in trade agreements and their underpinning processes, i.e., the TSD Chapters and Sustainability Impact Assessments; and by ensuring the coherence of the deforestation-free supply chains proposal with the upcoming [legislative proposal on 'due diligence'](#).

Integration of forestry provisions in the TSD Chapters

There are several ways in which the TSD Chapter provisions for forestry could contribute to the Commission's initiative for the development of deforestation-free supply chains. For instance, if the forestry provisions in the TSD Chapters were made to be more explicit and enforceable, violations of these provisions could be more swiftly identified and addressed.

Moreover, the overall enforcement of TSD Chapter provisions could be improved by including the implementation of the TSD Chapter under the more stringent overall FTA dispute settlement mechanism.

Going further, forestry protection could be extended – beyond the TSD Chapters – by ‘unboxing’ TSD Chapter provisions and mainstreaming them into sector-specific chapters of the FTA.

Finally, for existing FTAs, the implementation of TSD Chapters should be improved upon by taking forward the foreseen trade and sustainable development-related actions under the European Green Deal (e.g. the complaints platform), including allocating dedicated resources for their delivery.

Treatment of forests and deforestation in the FTA impact assessments

The Sustainability Impact Assessments (SIAs) and ex post evaluations play an essential role in underpinning trade agreements by assessing the potential economic, social and environmental implications of trade liberalisation with the results feeding directly into the negotiation and/or implementation process. Therefore, the treatment of environment and – more specific to this consultation – forest ecosystems and biodiversity is of utmost importance if this information is to feed into the FTA which grants protections to these environmental elements.

IEEP’s previous research finds that the EU trade agreement evaluation process is in need of more explicit guidance for and systematic and in-depth treatment of environmental aspects across sectors affected by trade liberalisation, including in particular ecosystem degradation and biodiversity loss.

IEEP emphasises the need to update or complement the official EU SIA Guidance Handbook with more explicit guidance for assessing environmental impacts (e.g. deforestation and biodiversity) to improve the extent and robustness of environment-related analysis. This should be complemented by dedicated applied research to continue to develop methods and tools for assessing different environmental consequences of trade liberalisation, including improving the spatial granularity of assessments.

IEEP’s ongoing research confirms the need for minimum standards and requirements for the impact analysis to address inconsistencies within and across impact assessments. For example, determining what burden of proof is required to identify an impact as being ‘significant’ or ‘high’, or for that matter ‘low’. Furthermore, there should be a clear guidance set for the impact of environmental regulations under trade liberalisation, so as to not overestimate the contribution of environmental regulations to the mitigation of negative environmental externalities.

Finally, IEEP stresses the need to allocate adequate resources for third parties carrying out the assessments, by providing an earmarked share of the budget or a clarification on minimum budget to be allocated for the environmental aspects of

the overall assessment. IEEP's research finds that the budget being allocated to environmental aspects in the context of past and ongoing EU trade impact assessments and evaluations takes a minor share of total budgets for SIAs and ex ante evaluations. As such, the analysis that can be delivered for the biodiversity component (e.g. deforestation) is typically limited. This means that meaningfully detailed and spatially explicit quantitative analysis of trade agreement impacts on ecosystems and biodiversity (e.g. deforestation and related impacts) are not a common occurrence at the moment.

More info

IEEP's response to the European Commission's public consultation drew on a number of IEEP publications, which can be consulted via following links: [Nanni, Allen, Treharne, Meredith & Bowyer \(2020\)](#), [Kettunen, Davey, Bodin, Gionfra & Charveriat \(2020\)](#) and [Kuik, Kettunen, van Vliet, Colsa & Illes \(2018\)](#).

The response was compiled and submitted by Eline Blot and Marianne Kettunen. For more information on IEEP's work on this area please contact Marianne Kettunen (mkettunen@ieep.eu).



This work has been produced with the financial support of the LIFE Programme of the European Union. The response to the public consultation reflects only the views of its authors.

The Institute for European Environmental Policy (IEEP) is a sustainability think tank with offices in Brussels and London. As a not-for-profit research organisation with over 40-years of experience, we are committed to advancing evidence-based and impact-driven sustainability policy across the EU and the world.

